

UNITED STATES COURT
DISTRICT COURT OF MASSACHUSETTS **Civil Action No. 05-11271-RWZ**
COURT OF APPEALS **DOCKET NO: Not yet docketed**

Carl and Alicia Furman,)
 PLAINTIFFS)
)
VS.)
)
John Ruger and)
Ruger Associates, Inc.,)
 DEFENDANTS)

STATEMENT OF ISSUES
THAT THE APPELLANT INTENDS TO PRESENT ON APPEAL
under, FRAP, RULE 10

1) Whether the District Court erred in allowing the Defendants' Motion to Transfer (to Maine), under 28 U.S.C 1404, where the Plaintiff-Appellants, chose to litigate in Massachusetts, where the Defendants subjected themselves to personal jurisdiction of the Massachusetts courts by directly soliciting the Plaintiff-Appellants in Massachusetts, where the Defendants specifically by their contract, exempted themselves from the applicable Maine law, and where the Plaintiffs specifically brought suit under Massachusetts law..

2) Whether the District Court erred in simply performing a balancing test of the convenience of the parties, rather than granting deference to the Plaintiff-Appellants choice of forum, based upon the Defendants' affidavit that many *potential* witnesses were located in Maine.

3) Whether the District Court abused its discretion in allowing the Defendants' Motion to Transfer without determining that the Defendant had overcome the, "**Strong presumption in favor of the plaintiff's choice of forum,**" as expressed in *Coady v Ashcraft & Gerel*, 233 F.3d. 1 (1st Cir.

2000), citing *Gulf Oil v. Gilbert*, 330 U.S.501,508 (1947)..

Respectfully submitted,
Carl Furman and Alicia Furman,
By their attorney,



ANDREW C. NOVICK, ESQ.
NOVICK LAW OFFICES INC.
227 Union Street
New Bedford, MA 02740
Tel. No. (508) 997-4571
MA B.B.O. No. 543825

Dated: September 7, 2005

CERTIFICATE OF SERVICE

I hereby certify that a copy of this pleading has been served by mailing postage paid by Express Mail to the Defendants' counsel of record, Nikolas P. Kerest, and, Jotham D. Pierce, at, PIERCE ATWOOD, LLP., One Monument Square, Portland, ME 04101, Tel. No. (207) 791-1162, this 7th day of September, 2005.

Respectfully submitted,
Carl Furman and Alicia Furman,
By their attorney,



ANDREW C. NOVICK, ESQ.
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227 Union Street
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